

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL PUBLIC RADIO, INC.

1111 N. Capitol St. NE

Washington, DC 20002

and

TIM MAK,

2112 8th St. NW, Apt. 733

Washington, DC 20001

Plaintiffs,

v.

**UNITED STATES DEPARTMENT
OF THE TREASURY**

1500 Pennsylvania Ave. NW

Washington, DC 20220

Defendant.

Civil Action No. 1:19-CV-17

COMPLAINT

Plaintiffs National Public Radio, Inc. and Tim Mak (collectively, “NPR”), by their undersigned attorneys, allege as follows:

INTRODUCTION

1. This is an action brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.*, seeking the release of agency records from the United States Department of the Treasury (“Treasury”).

2. Through this action, NPR seeks to compel Treasury to release information regarding its communications with and concerning certain Russian individuals associated with infiltrating American political organizations, including sanctioned oligarchs Alexander Torshin

and Oleg Deripaska and Russian agent Maria Butina who recently pled guilty to conspiracy to act as an illegal foreign agent in the United States.

3. NPR made four separate requests – from May through August 2018 – for these records, and still has received no substantive response from the agency whatsoever. This is a violation of Treasury’s duties pursuant to FOIA. Its delay and constructive denial of NPR’s FOIA requests are improper and should not be countenanced. As a matter of law, Treasury should be required to fulfill its statutory obligations and release the requested records immediately.

PARTIES

4. Plaintiff National Public Radio, Inc. is a non-profit multimedia organization organized under the laws of the District of Columbia with its principal place of business in Washington, D.C. It is the leading provider of non-commercial news, information and entertainment programming to the American public. NPR’s fact-based, independent journalism helps the public stay on top of breaking news, follow the most critical stories of the day, and track complex issues over the long term. NPR serves an audience of 29 million people who listen to NPR programming and newscasts each week via more than 1,000 non-commercial, independently operated radio stations. NPR also reaches millions of people via its digital properties, including podcasts (which see about 19 million unique users each month), social media, mobile applications, and NPR.org (which sees about 37 million unique visitors each month).

5. Plaintiff Tim Mak is a political reporter for NPR based in Washington, D.C. Among other topics, he covers the investigation into Russian interference in the 2016 presidential election.

6. Defendant Treasury is an agency of the federal government. It has possession, custody and/or control of the records that NPR seeks. Treasury is located at 1200 New Jersey Avenue SE, Washington, D.C. 20590.

JURISDICTION AND VENUE

7. This action arises under FOIA. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B).

8. Venue is proper in this judicial district under 5 U.S.C. § 552(a)(4)(B).

FACTUAL ALLEGATIONS

9. The Freedom of Information Act “focuses on the citizens’ right to be informed about ‘what their government is up to,’” by fostering the release of “[o]fficial information that sheds light on an agency’s performance of its statutory duties.” *DOJ v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 750, 773 (1989) (citation omitted). “[D]isclosure, not secrecy, is the dominant objective” of FOIA. *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8 (2001) (citation omitted).

10. NPR plays a critical role in providing information to citizens about “what their government is up to.” Indeed, the First Amendment’s guarantee of freedom of the press is meant to enable journalists to play an “essential role in our democracy,” to “bare the secrets of government and inform the people.” *N.Y. Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J., concurring).

11. Through the FOIA requests here at issue (and through this litigation), NPR seeks to fulfill its journalistic function and to shine a public light on the operations of Treasury, particularly its treatment of certain Russians who are now believed to have been working against American interests.

12. For example, Maria Butina (who was indicted and recently pled guilty) and Alexander Torshin (who has been sanctioned by Treasury) reportedly had meetings in 2015 with top U.S. officials at Treasury and appear to have been seeking relief for Russia from U.S. sanctions as part of the Russian campaign of influence in the United States. They had gained entrée into U.S. political circles through the National Rifle Association, by posing as allies of Mikhail Kalashnikov, the inventor of the AK-47, which are manufactured by “Kalashnikov Concern” (which has also been sanctioned). The information sought by these requests – including, among other things, information about Butina, Torshin and Kalashnikov Concern – is crucial to the public’s understanding of the breadth and depth of Russian infiltration, Treasury’s handling of the Russians’ apparent attempts to influence it and Treasury’s later decision in 2018 to impose sanctions against Torshin, Kalashnikov Concern and others.

REQUEST A

13. On or about May 14, 2018, NPR submitted to Treasury a FOIA request relating to communications and documents concerning Russian oligarchs Alexander Torshin and Oleg Deripaska. Specifically, it requested (a) “written communications between the Treasury Department’s Office of Foreign Assets Control (“OFAC”) and other Treasury Department officials referring or relating” to Torshin and/or Deripaska, (b) “documents reflecting communications, discussions or meetings referring or relating to” Torshin and/or Deripaska “as a potential candidate for sanctions designation,” (c) “documents that constitute the evidentiary

package used to support, or form the basis of, OFAC's April 6, 2018, sanctions designation of Torshin" and/or its "April 6, 2018 sanctions designation of Deripaska, and (d) "'talking points' or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation[s]" of Torshin and/or Deripaska. The request made clear that it did "not seek copies of properly classified documents," and asked that, if any of the requested "documents have been classified pursuant to Executive Order," then they be reviewed "to determine whether they are properly classified or continue to warrant classification." A true and correct copy of this request is attached hereto as Exhibit 1.

14. Pursuant to FOIA, an agency must respond to a request with 20 working days, or within 30 working days if it can show "unusual circumstances." *See* 5 U.S.C. § 552(6)(a)(i) & (a)(6)(B)(i). Treasury responded to NPR's May 14, 2018 request 37 days later, on July 6, 2018. This response was not substantive in any way; rather, it merely acknowledged that Treasury had received NPR's request and had "referred" it to OFAC on June 29, 2018. A true and correct copy of this response is attached hereto as Exhibit 2.

15. NPR received a second letter from Treasury on July 16, 2018, informing it that Treasury had determined that "other program offices within Departmental Offices (DO) should have also been assigned" to the request. Claiming "unusual circumstances," Treasury informed NPR that "an additional processing extension of 10 days is required to process" the request, even though, by this point, Treasury had already far exceeded the statutorily-mandated time period for responding to a FOIA request, even under "unusual circumstances." A true and correct copy of this second letter is attached hereto as Exhibit 3.

16. After waiting more than two additional months with no communication from Treasury, NPR filed an administrative appeal on October 3, 2018, claiming constructive denial of

its FOIA request. A true and correct copy of the administrative appeal is attached hereto as Exhibit 4.

17. On October 10, 2018, the Treasury responded, asserting that “[t]he absence of a response within the time limits specified in the FOIA is not a basis for filing an administrative appeal.” As a result, the letter continued, because Treasury “has not yet issued a determination” on the request, “the appeal is premature.” The correspondence invited NPR to contact “Cawana Pearson” by telephone or email “if you would like to schedule a conference call to discuss your FOIA request further.” A true and correct copy of this October 10, 2018 correspondence from Treasury is attached hereto as Exhibit 5.

18. More than a month later, still having received no substantive response from Treasury, NPR engaged undersigned counsel, David J. Bodney, to contact Ms. Pearson at the number provided. On November 30, 2018, NPR’s counsel phoned and reached her voicemail. He left a detailed message and requested a return call. Ms. Pearson’s outgoing voice message also advised callers to try a different number. When Mr. Bodney tried that number, he also got voicemail (with the outgoing message noting that calls would be returned within 24 hours), and left a second message. To date, Treasury has not returned either of his calls.

19. NPR has exhausted its administrative remedies regarding Request A pursuant to 5 U.S.C. § 552(6)(C)(i).

REQUEST B

20. On or about August 14, 2018, NPR submitted to Treasury a FOIA request for records relating to Maria Butina, specifically: (a) “written communications between [OFAC] and other Treasury Department officials referring or relating to Maria Butina or Mariia Butina,” and “documents reflecting or revealing communications between the Treasury Department (or any of

its officials) and Butina.” The request made clear that it did “not seek copies of properly classified documents,” and asked that, if any of the requested “documents have been classified pursuant to Executive Order,” then they be reviewed “to determine whether they are properly classified or continue to warrant classification.” A true and correct copy of this request is attached hereto as Exhibit 6.

21. To date – more than four months after the request was made – NPR has received no response from Treasury at all, substantive or otherwise. Pursuant to 5 U.S.C. § 552(6)(A)(i), the deadline for a substantive response was September 12, 2018.

22. NPR has exhausted its administrative remedies regarding Request B pursuant to 5 U.S.C. § 552(6)(C)(i) (a requestor “shall be deemed to have exhausted his administrative remedies . . . if the agency fails to comply with the applicable time limit provisions”).

REQUEST C

23. Also on or about August 14, 2018, NPR submitted another FOIA request to Treasury, seeking copies of records regarding Kalashnikov Concern, the gun industry lobbyist Mark Barnes, and the National Rifle Association. Specifically, it requested: (a) “written communications between” OFAC “and other Treasury Department officials referring or relative to Kalashnikov Concern,” (b) “documents reflecting communications, discussions or meetings referring or relating to Kalashnikov Concern as a potential candidate for sanctions designation,” (c) “documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Kalashnikov Concern or its representatives,” (d) “documents that constitute the evidentiary package used to support, or form the basis of, OFAC’s July 16, 2014 sanctions designation of Kalashnikov Concern,” (e) any “‘talking points’ or other written materials used in connection with OFAC’s July 16, 2014 sanctions designation of Kalashnikov Concern,” (f) “written communications between OFAC and other Treasury Department Officials

referring or relating to Mark Barnes,” (g) “documents reflecting communications, discussions or meetings referring or relating to Barnes,” (h) “documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Barnes,” (i) “written communications between OFAC and other Treasury Department officials referring or relating to the National Rifle Association, the NRA, the National Rifle Association Institute for Legislative Action, or its affiliates (‘NRA’),” (j) “documents reflecting communications, discussions, or meetings referring or relating to NRA,” and (k) “documents reflecting or revealing communications between the Treasury Department (or any of its officials) and NRA.” The request made clear that it did “not seek copies of properly classified documents,” and asked that, if any of the requested “documents have been classified pursuant to Executive Order,” then they be reviewed “to determine whether they are properly classified or continue to warrant classification.” A true and correct copy of this request is attached hereto as Exhibit 7.

24. To date – more than four months after the request was made – NPR has received no response from Treasury at all, substantive or otherwise. Pursuant to 5 U.S.C. § 552(6)(A)(i), the deadline for a substantive response was September 12, 2018.

25. NPR has exhausted its administrative remedies regarding Request C pursuant to 5 U.S.C. § 552(6)(C)(i) (a requestor “shall be deemed to have exhausted his administrative remedies . . . if the agency fails to comply with the applicable time limit provisions”).

REQUEST D

26. Finally, on or about August 29, 2018, NPR submitted a FOIA request seeking: (a) “written communications sent or received by former Treasury undersecretary for international affairs Nathan Sheets (‘Sheets’) relating or referring to [Torshin] from January 2015 to present,” (b) “written communications sent or received by . . . Sheets relating or referring to . . . Butina from January 2015 to present,” (c) “written communications sent or received by employees in

the Office of International Affairs referring to Torshin or Butina from January 2015 to present,” (d) “documents reflecting communications or discussions referring or relating to a meeting Sheets had with Torshin and Butina in April 2015,” and (e) “notes taken by Sheets or his employees of the Office of International Affairs in the meeting with Torshin and Butina held in April 2015.” A true and correct copy of this request is attached hereto as Exhibit 8.

27. To date – more than four months after the request was submitted – NPR has received no response from Treasury at all, substantive or otherwise. Pursuant to 5 U.S.C. § 552(6)(A)(i), the deadline for a substantive response was September 27, 2018.

28. NPR has exhausted its administrative remedies regarding Request C pursuant to 5 U.S.C. § 552(6)(C)(i) (a requestor “shall be deemed to have exhausted his administrative remedies . . . if the agency fails to comply with the applicable time limit provisions”).

CLAIM FOR RELIEF

COUNT I

(Declaratory and Injunctive Relief:

Violation of the Freedom of Information Act, 5 U.S.C. § 552)

29. NPR realleges and incorporates by reference all previous paragraphs as if fully set forth herein.

30. Treasury is an agency subject to FOIA, 5 U.S.C. § 552(f), and therefore must disclose in response to a FOIA request all responsive records in its possession at the time of the request that are not specifically exempt from disclosure under FOIA, and must provide a lawful reason for withholding any records (or portions thereof) as to which they are claiming an exemption.

31. The records requested in Requests A through D, described herein and attached hereto (Exhibits 1, 6, 7, and 8), are subject to release pursuant to FOIA.

32. Treasury's failure timely to disclose the records sought by Requests A through D violates FOIA, 5 U.S.C. § 552(a)(3)(A).

REQUEST FOR RELIEF

WHEREFORE, NPR respectfully requests that this Court:

- A. Expedite consideration of this Complaint pursuant to 28 U.S.C. § 1657;
- B. Declare that the records sought by Requests A through D, as more particularly described above, are public records pursuant to FOIA and must be disclosed;
- C. Order Treasury to provide the requested records to NPR, including electronic copies of records stored in electronic format, within 10 business days of the Court's order;
- D. Award NPR the costs of this proceeding, including reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- E. Grant NPR such other and further relief as this Court deems just and proper.

Dated: January 3, 2019

Respectfully submitted,

BALLARD SPAHR LLP

/s/ Alia Smith

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*Counsel for Plaintiffs National Public
Radio, Inc. and Tim Mak*

Exhibit 1

n p r

May 14, 2018

Freedom of Information Request
FOIA and Transparency
Department of the Treasury
Washington, D.C. 20220

Freedom of Information Act Request for OFAC-Related Documents

Dear Sir or Madam:

Under the federal Freedom of Information Act, 5 U.S.C. § 552 (the "FOIA"), I request as a reporter for National Public Radio, Inc. ("NPR") that you make available to me for inspection and copying the following Treasury Department documents (which include electronic records):

Alexander Torshin

1. Any and all written communications between the Treasury Department's Office of Foreign Assets Control ("OFAC") and other Treasury Department officials referring or relating to Alexander Torshin ("Torshin");
2. Any and all documents reflecting communications, discussions or meetings referring or relating to Torshin as a potential candidate for sanctions designation;
3. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Torshin;
4. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC's April 6, 2018 sanctions designation of Torshin; and
5. Any "talking points" or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation of Torshin;

Oleg Deripaska

6. Any and all written communications between the Treasury Department's Office of Foreign Assets Control ("OFAC") and other Treasury Department officials referring or relating to Oleg Deripaska ("Deripaska");
7. Any and all documents reflecting communications, discussions or meetings referring or relating to Deripaska as a potential candidate for sanctions designation;
8. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Deripaska;

May 14, 2018

Page 2

9. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC's April 6, 2018 sanctions designation of Deripaska; and
10. Any "talking points" or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation of Deripaska.

To be clear, this request does not seek copies of properly classified documents. If any of the foregoing documents have been classified pursuant to Executive Order, we ask that you review the information to determine whether they are properly classified or continue to warrant classification.

As you know, the FOIA provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, please send me all non-exempt portions of the records I have requested and justify any deletions by reference to specific exemptions of the FOIA. I reserve the right to appeal your decision to withhold any materials.

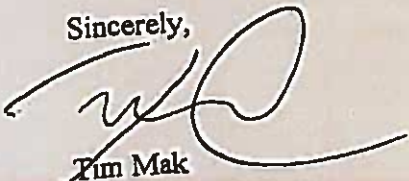
Since some of the documents listed above may be more readily available than others, please provide the documents that are available as soon as possible without waiting to provide access to all the documents. You may send copies of the records to me at the address(es) below without first facilitating my inspection of the records on site.

The FOIA provides for waiver or reduction of fees if disclosure could be considered as "primarily benefiting the general public." I am a journalist employed by, and actively gathering news for, NPR, and intend to use the information I am requesting as a basis for a planned news story, which makes me a "representative of the news media." Therefore, I ask that you waive all duplication fees. If you deny this request, however, and the fees will exceed \$250.00, please notify me of the charges before you fulfill my request so that I may decide whether to pay the fees or appeal your denial of my request for a waiver.

I submit this request in my capacity as a journalist, and this information is time-sensitive. Accordingly, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have any questions regarding this request. I can be reached at 202-870-7566 or tmak@npr.org. You can also communicate with anyone in NPR's Legal Department, including, Micah Ratner, Counsel, who can be reached at 202-513-2045 or mratner@npr.org. Of course, you can reach me by mail at 1111 North Capitol St., N.E., Washington, D.C. 20002. I look forward to receiving your reply within twenty (20) business days, as required by federal law.

Thank you for your anticipated cooperation with this FOIA request.

Sincerely,



Tim Mak

Exhibit 2



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 6, 2018

FOIA No.: 2018-06-192

OASIS No.: 1007693

VIA ELECTRONIC MAIL: tmak@npr.org

Mr. Tim Mak
National Public Radio, Inc.
1111 North Capitol St., N.E.
Washington, DC 20002

Dear Mr. Mak:

This acknowledges receipt of your May 14, 2018 Freedom of Information Act, 5 U.S.C. § 552 (FOIA), request to the Department of the Treasury seeking records pertaining to Alexander Torshin and Oleg Deripaska. Treasury referred your request to its Office of Foreign Assets Control (OFAC) for processing on June 29, 2018.

OFAC generally processes its FOIA requests on a "first in, first out" basis. We may encounter some delay in processing your request since OFAC is experiencing a substantial backlog of FOIA requests that has adversely affected its response time. We will make every effort to comply with your request in a timely manner; however, there are currently 196 open requests ahead of yours.

For fee purposes, we have determined that, you are a "media" requestor. The FOIA, specifically 5 U.S.C. § 552(a)(4)(A), and Treasury FOIA regulations at 31 C.F.R. § 1.7, allow us to recover part of the cost of addressing your request. As a "media" requestor, you will be charged the cost of duplication only, excluding charges for the first 100 pages. Duplication will be assessed at 20-cents per page. You requested a fee waiver. We have determined that your request for a fee waiver is moot because OFAC will process our response(s) to you in electronic format, and this cost will be de minimis.

We will query the appropriate OFAC components for responsive records. If responsive records are located, they will be reviewed for determination on release. One of our analysts will respond to your request. We appreciate your patience as we proceed.

Please be aware that, should records responsive to your request exist, they may contain sensitive business information. OFAC is required to process such records through its submitter notice process. This process can add, at minimum, an additional 30 days to the processing of your request. Please see 31 C.F.R. § 1.6.

Please be advised that OFAC will neither confirm nor deny the existence of investigative records, pursuant to exemption (b)(7)(A) of the FOIA, unless there was an actual investigation

Mr. Mak
Page 2

that resulted in a designation or enforcement action, or the investigation is publicized. The mere acknowledgement of an investigation could reveal classified information and thereby cause harm to our national security posture. Until an actual designation, enforcement action or public acknowledgement of an investigation by Treasury has occurred, release of any information confirming or denying the existence of an investigation could conceivably tip off the subjects of pending investigations. The mere acknowledgement of an OFAC investigation would allow the subject of the investigation the opportunity to engage in asset flight and change their habits and routines such that an enforcement action or designation would be impossible to obtain. Conversely, if OFAC were to acknowledge that it was not investigating an individual that was actually involved in criminal activity, that information alone may embolden the individual in their continued criminal activities.

Additionally, to the extent that your request seeks records which are subject to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) [21 U.S.C. §§ 1901-08], please be aware that all records or information obtained or created pursuant to the Kingpin Act is exempt from the provisions of the FOIA (5 U.S.C. § 552(b)(3)) pursuant to 21 U.S.C. § 1904(e)(3).

We will query the appropriate OFAC component for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of our Analysts will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned FOIA No. **2018-06-192**. Please reference this number in any future correspondence. If you have any questions regarding this matter, you may email OFACFOIAOffice@treasury.gov or contact the FOIA Requester Service Center at (202) 622-2500, option 3.

Sincerely,

Sara Elizabeth Moss, Ph.D., CIPP/G
Senior FOIA Reviewer
Information Disclosure and Records Management
Office of Sanctions Support and Operations
Office of Foreign Assets

Exhibit 3



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

July 16, 2018

RE: 2018-06-192

Mr. Tim Mak
National Public Radio, Inc.

Email: tmak@npr.org

Dear Mr. Mak:

This concerns your Freedom of Information Act (FOIA) request submitted to the U.S. Department of the Treasury, dated May 14, 2018. You seek all OFAC documents outlined below:

1. Any and all written communications between the Treasury Department's Office of Foreign Assets Control ("OFAC") and other Treasury Department officials referring or relating to Alexander Torshin ("Torshin");
2. Any and all documents reflecting communications, discussions or meetings referring or relating to Torshin as a potential candidate for sanctions designation;
3. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Torshin;
4. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC's April 6, 2018 sanctions designation of Torshin; and
5. Any "talking points" or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation of Torshin Oleg Deripaska
6. Any and all written communications between the Treasury Department's Office of Foreign Assets Control ("OFAC") and other Treasury Department officials referring or relating to Oleg Deripaska ("Deripaska");
7. Any and all documents reflecting communications, discussions or meetings referring or relating to Deripaska as a potential candidate for sanctions designation;
8. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Deripaska;
9. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC's April 6, 2018 sanctions designation of Deripaska; and

10. Any "talking points" or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation of Deripaska.

After further review of your request and consultation with the Office of Foreign Assets Control (OFAC), it was determined that other program offices within Departmental Offices (DO) should have also been assigned your FOIA request to process.

I have initiated a search within Departmental Offices (DO), for records that would be responsive to your request. I will make every effort to provide you with a timely response; however, please be advised that unusual circumstances exist regarding the search for and review of potentially responsive records. The unusual circumstances are due to the consultation required between two or more program offices and/or a search is expected to result in voluminous records and/or a search is required to be conducted for records stored in field offices or warehouses off site; therefore, an additional processing extension of (10) days is required to process your request. As with all FOIA requests, I invite you to consider contacting our office to discuss limiting the scope of your request which could significantly reduce the processing time of your request.

As noted in our original acknowledgement letter, your request has also been assigned to the Office of Foreign Assets Control (OFAC). OFAC will contact you directly concerning your request. Your request may require further submissions and/or justifications in order to be processed.

When inquiring about your request within OFAC, please refer to identification number above and contact the OFAC FOIA Requester Service Center at 202-622-2500, option 3 or via email at OFACFOIAOffice@treasury.gov.

We will review your request for a fee waiver once our office ascertains that the billable costs will exceed our \$25.00 billing threshold. We acknowledge your agreement to pay up to \$250.00 if your fee waiver is denied.

You may seek dispute resolution services from our Treasury FOIA Public Liaison by contacting Paul Levitan, Director, FOIA and Transparency at (202) 622-8098 or email FOIAPL@treasury.gov.

You may also wish to contact the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office which offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001
ogis@nara.gov
ogis.archives.gov
(202) 741-5770
(877) 684-6448

You may reach me via telephone at 202-622-0930, extension 2; or via email at FOIA@treasury.gov with questions concerning the processing of your request within Departmental Offices (DO). Please reference the FOIA request number at the top of the letter when contacting our office about this request. Please note that OFAC will process your request independent of DO; therefore you will receive more than one final response from Department of the Treasury.

Sincerely,

Cawana Pearson

Cawana Pearson
FOIA Case Manager, FOIA and Transparency

Exhibit 4



October 3, 2018

VIA EMAIL TO: FOIA@treasury.gov

FOIA Appeal, Departmental Offices,
Assistant Director, Disclosure Services,
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

FOIA Request No.: 2018-06-192

Subject: Freedom of Information Act Appeal

To Whom It May Concern:

I represent National Public Radio, Inc. and NPR Correspondent Tim Mak (collectively, "NPR"). I hereby appeal on behalf of NPR from the U.S. Treasury's ("Treasury") denial of NPR's May 14, 2018, Freedom of Information Act ("FOIA") request for documents related to Alexander Torshin and Oleg Deripaska.

The basis of the appeal is that Treasury has failed to make a determination about the FOIA request within 20 working days under 5 U.S.C. § 552(a)(A)(i), and therefore has constructively denied it.

I. Background

On May 14, 2018, NPR submitted a FOIA request to the Treasury Department, which is attached hereto as Exhibit A. NPR requested the following records:

Alexander Torshin

1. Any and all written communications between the Treasury Department's Office of Foreign Assets Control ("OFAC") and other Treasury Department officials referring or relating to Alexander Torshin ("Torshin");
2. Any and all documents reflecting communications, discussions or meetings referring or relating to Torshin as a potential candidate for sanctions designation;
3. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Torshin;
4. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC's April 6, 2018 sanctions designation of Torshin; and
5. Any "talking points" or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation of Torshin;

Oleg Deripaska

6. Any and all written communications between the Treasury Department's Office of Foreign Assets Control ("OFAC") and other Treasury Department officials referring or relating to Oleg Deripaska ("Deripaska");
7. Any and all documents reflecting communications, discussions or meetings referring or relating to Deripaska as a potential candidate for sanctions designation;
8. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Deripaska;
9. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC's April 6, 2018 sanctions designation of Deripaska; and
10. Any "talking points" or other written materials used in connection with OFAC's April 6, 2018 announcement of its sanctions designation of Deripaska.

The request made clear that "this request does not seek copies of properly classified documents." It said "[i]f any of the foregoing documents have been classified pursuant to Executive Order, we ask that you review the information to determine whether they are properly classified or continue to warrant classification." Though NPR offered to pay reasonable duplication fees, as a representative of the news media seeking these records on behalf of NPR for dissemination to the public, NPR asked for a waiver of those fees. NPR requested that Treasury justify all deletions by reference to specific exemptions of FOIA.

On July 6, 2018, NPR received an acknowledgment letter from Treasury, which stated, "Treasury referred your request to its Office of Foreign Assets Control (OFAC) for processing on June 29, 2018." That acknowledgment stated that as a media requestor, NPR will be "charged for the cost of duplication only, excluding charges for the first 100 pages." The acknowledgement, stated the request was "moot" because the response would be processed in an electronic format and would thus be "de minimis." A copy of the July 6 2018, acknowledgement letter is attached hereto as Exhibit B.

In addition, NPR received a second letter from Treasury on July 16, 2018, informing NPR that Treasury determined that "other program offices within Departmental Offices (DO) should have also been assigned" the request. A copy of the acknowledgement letter is attached hereto as Exhibit C. Claiming "unusual circumstances," Treasury informed NPR that "an additional processing extension of 10 days is required to process" the request, and stated it would further review the request for a fee waiver. A copy of the July 16 2018, acknowledgement letter is attached hereto as Exhibit C.

II. Treasury Has Failed to Make a "Determination" Regarding the FOIA Request Within the Deadline FOIA Imposes

Treasury's OFAC and Department Offices have failed to meet the response deadline required by FOIA. Under FOIA, "an agency must make and communicate its 'determination' whether to comply with a FOIA request — and communicate 'the reasons therefor' — within 20 working days of receiving the request, or within 30 working days" if it meets burden to claim "unusual circumstances." *Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d 180, 182 (D.C. Cir. 2013) ("*CREW*") (quoting 5 U.S.C. § 552(a)(6)(A)(i) & (a)(6)(B)(i)). OFAC's determination was due by July 27, 2018. The Departmental Offices' determination was due no

later than August 13, 2018 (if the 20-day deadline applied) or August 27, 2018 (if the 30-day deadline applied). In either case, Treasury has missed the deadline.

Treasury's mere acknowledgement of receipt of the request in its July 6 letter or July 16 letters is not a "determination" under FOIA. Instead, "to make a 'determination'" Treasury must, for example: "(i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the 'determination' is adverse." *Crew*, 711 F.3d at 188. However, Treasury has not done so here. Instead, OFAC simply stated that it will "query the appropriate OFAC components for responsive records" and the Departmental Offices stated that it has "initiated a search within Departmental Offices . . . for records that would be responsive."

Nor was the Departmental Offices' claim of "unusual circumstances" in the letter dated July 16 sufficient to make a "determination." "[W]ithin the relevant time period, the agency must at least inform the requester of the scope of the documents that the agency will produce, as well as the scope of the documents that the agency plans to withhold under any FOIA exemptions." *CREW*, 711 F.3d at 186. The Departmental Offices have not provided a "determination" within the 10-day extension sought regarding the documents requested or since then.

Accordingly, Treasury's deadline to make a "determination" has elapsed. 5 U.S.C. § 552(a)(A)(i). Because Treasury has failed to make a determination by that statutory deadline, it has constructively denied the request and NPR is deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C); *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 65 (D.C. Cir. 1990).

III. CONCLUSION

The Supreme Court's directive is that "disclosure, not secrecy, is the dominant objective of FOIA." *U.S. Dep't of Def. v. Fed. Labor Relations Auth.*, 510 U.S. 487, 494 (1993). The records NPR seeks – which do not include properly classified records – concern sanctions imposed against two Russian oligarchs, a matter of the highest public interest. We respectfully request that you respond to this appeal with 20 business days (5 U.S.C. § 552(a)(6)(A)(ii)) and that you instruct OFAC and the Departmental Offices to release all non-exempt portions of the records requested immediately.

Sincerely,



Micah Ratner
Counsel

Exhibit 5



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

October 10, 2018

Re: 2018-06-192A

Ms. Micah Ratner
Counselor
National Public Radio, Inc.
1111 North Capitol St., N.E.
Washington, D.C. 20002

Email: tmak@npr.org

Dear Mr. Mak:

This responds to the Freedom of Information Act ("FOIA") appeal you submitted on behalf Tim Mak, with NPR, dated October 3, 2018, challenging the alleged failure of the Department of the Treasury ("Treasury"), to respond to Mr. Mak's FOIA request within 20 working days. You note in the appeal that Treasury has not responded to the FOIA request which constitutes a constructive denial.

Treasury's FOIA regulation, 31 C.F.R. § 1.5, sets forth the bases for a FOIA requester to file an administrative appeal of a Treasury initial FOIA determination. The absence of a response within the time limits specified in the FOIA is not a basis for filing an administrative appeal.

As Treasury has not yet issued a determination in response to Mr. Mak's request as of the date of your appeal, it appears that the appeal is premature. Accordingly, the appeal will be closed as unripe. You will be advised of your appeal rights upon the issuance of a final agency determination from Treasury.

Judicial review of my decision is available in the district court of the United States in the district in which *NPR* resides or has a principal place of business, in which the agency records are situated, or in the District of Columbia, in accordance with 5 U.S.C. § 552(a)(4)(B).

If you would like to schedule a conference call to discuss your FOIA request further, please contact Cawana Pearson via telephone at 202-622-0930, extension 2; or via email at FOIA@treasury.gov. Please reference the FOIA number at the top of this letter when contacting our office about this request.

Sincerely,

Cawana Pearson

Cawana Pearson
FOIA Case Manager, FOIA and Transparency
Privacy, Transparency, and Records (PTR)

Exhibit 6



August 14, 2018

Freedom of Information Request
FOIA and Transparency
Department of the Treasury
Washington, D.C. 20220

Freedom of Information Act Request for OFAC-Related Documents

Dear Sir or Madam:

Under the federal Freedom of Information Act, 5 U.S.C. § 552 (the “FOIA”), I request as a reporter for National Public Radio, Inc. (“NPR”) that you make available to me for inspection and copying the following Treasury Department documents (which include electronic records) for the period Feb. 1, 2014 to present:

1. Any and all written communications between the Treasury Department’s Office of Foreign Assets Control and other Treasury Department officials referring or relating to Maria Butina or Mariia Butina (“Butina”); and
2. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Butina.

To be clear, this request does not seek copies of properly classified documents. If any of the foregoing documents have been classified pursuant to Executive Order, we ask that you review the information to determine whether they are properly classified or continue to warrant classification.

As you know, the FOIA provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, please send me all non-exempt portions of the records I have requested and justify any deletions by reference to specific exemptions of the FOIA. I reserve the right to appeal your decision to withhold any materials.

Since some of the documents listed above may be more readily available than others, please provide the documents that are available as soon as possible without waiting to provide access to all the documents. You may send copies of the records to me at the address(es) below without first facilitating my inspection of the records on site.

The FOIA provides for waiver or reduction of fees if disclosure could be considered as “primarily benefiting the general public.” I am a journalist employed by, and actively gathering news for, NPR, and intend to use the information I am requesting as a basis for a planned news story, which makes me a “representative of the news media.” Therefore, I ask that you waive all duplication fees. If you deny this request, however, and the fees will exceed \$250.00, please notify me of the charges before you fulfill my request so that I may decide whether to pay the fees or appeal your denial of my request for a waiver.

I submit this request in my capacity as a journalist, and this information is time-sensitive. Accordingly, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have any questions regarding this request. I can be reached at 202-870-7566 or tmak@npr.org. You can also

August 14, 2018

Page 2

communicate with anyone in NPR's Legal Department, including, Micah Ratner, Counsel, who can be reached at 202-513-2045 or mratner@npr.org. Of course, you can reach me by mail at 1111 North Capitol St., N.E., Washington, D.C. 20002. I look forward to receiving your reply within twenty (20) business days, as required by federal law.

Thank you for your anticipated cooperation with this FOIA request.

Sincerely,

Tim Mak

Exhibit 7



August 14, 2018

Freedom of Information Request
FOIA and Transparency
Department of the Treasury
Washington, D.C. 20220

Freedom of Information Act Request for OFAC-Related Documents

Dear Sir or Madam:

Under the federal Freedom of Information Act, 5 U.S.C. § 552 (the “FOIA”), I request as a reporter for National Public Radio, Inc. (“NPR”) that you make available to me for inspection and copying the following Treasury Department documents (which include electronic records):

Kalashnikov Concern (from Feb 1, 2014 to present)

1. Any and all written communications between the Treasury Department’s Office of Foreign Assets Control (“OFAC”) and other Treasury Department officials referring or relating to Kalashnikov Concern (“Kalashnikov”);
2. Any and all documents reflecting communications, discussions or meetings referring or relating to Kalashnikov Concern as a potential candidate for sanctions designation;
3. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Kalashnikov Concern or its representatives;
4. Any and all documents that constitute the evidentiary package used to support, or form the basis of, OFAC’s July 16, 2014 sanctions designation of Kalashnikov Concern; and
5. Any “talking points” or other written materials used in connection with OFAC’s July 16, 2014 sanctions designation of Kalashnikov Concern;

Mark Barnes (from Feb 1, 2014 to present)

6. Any and all written communications between OFAC and other Treasury Department officials referring or relating to gun industry lobbyist Mark Barnes (“Barnes”);
7. Any and all documents reflecting communications, discussions or meetings referring or relating to Barnes;
8. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and Barnes;

National Rifle Association (from Feb 1, 2014 to present)

August 14, 2018

Page 2

9. Any and all written communications between OFAC and other Treasury Department officials referring or relating to the National Rifle Association, the NRA, the National Rifle Association Institute for Legislative Action, or its affiliates ("NRA").
10. Any and all documents reflecting communications, discussions or meetings referring or relating to NRA;
11. Any and all documents reflecting or revealing communications between the Treasury Department (or any of its officials) and NRA;

To be clear, this request does not seek copies of properly classified documents. If any of the foregoing documents have been classified pursuant to Executive Order, we ask that you review the information to determine whether they are properly classified or continue to warrant classification.

As you know, the FOIA provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, please send me all non-exempt portions of the records I have requested and justify any deletions by reference to specific exemptions of the FOIA. I reserve the right to appeal your decision to withhold any materials.

Since some of the documents listed above may be more readily available than others, please provide the documents that are available as soon as possible without waiting to provide access to all the documents. You may send copies of the records to me at the address(es) below without first facilitating my inspection of the records on site.

The FOIA provides for waiver or reduction of fees if disclosure could be considered as "primarily benefiting the general public." I am a journalist employed by, and actively gathering news for, NPR, and intend to use the information I am requesting as a basis for a planned news story, which makes me a "representative of the news media." Therefore, I ask that you waive all duplication fees. If you deny this request, however, and the fees will exceed \$250.00, please notify me of the charges before you fulfill my request so that I may decide whether to pay the fees or appeal your denial of my request for a waiver.

I submit this request in my capacity as a journalist, and this information is time-sensitive. Accordingly, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have any questions regarding this request. I can be reached at 202-870-7566 or tmak@npr.org. You can also communicate with anyone in NPR's Legal Department, including, Micah Ratner, Counsel, who can be reached at 202-513-2045 or mratner@npr.org. Of course, you can reach me by mail at 1111 North Capitol St., N.E., Washington, D.C. 20002. I look forward to receiving your reply within twenty (20) business days, as required by federal law.

Thank you for your anticipated cooperation with this FOIA request.

August 14, 2018

Page 3

Sincerely,

Tim Mak

Exhibit 8



August 29, 2018

Freedom of Information Request
FOIA and Transparency
Department of the Treasury
Washington, D.C. 20220

Freedom of Information Act Request for Nathan Sheets documents

Dear Sir or Madam:

Under the federal Freedom of Information Act, 5 U.S.C. § 552 (the “FOIA”), I request as a reporter for National Public Radio, Inc. (NPR) that you make available to me for inspection and copying the following Treasury Department documents (which include electronic records):

1. Any and all written communications sent or received by former Treasury undersecretary for international affairs Nathan Sheets (“Sheets”) relating or referring to Alexander Torshin (“Torshin”) from January 2015 to present.
2. Any and all written communications sent or received by former Treasury undersecretary for international affairs Nathan Sheets relating or referring to Maria Butina or Mariia Butina (“Butina”) from January 2015 to present.
3. Any and all written communications sent or received by employees in the Office of International Affairs referring to Torshin or Butina from January 2015 to present.
4. Any and all documents reflecting communications or discussions referring or relating to a meeting Sheets had with Torshin and Butina in April 2015.
5. Any and all notes taken by Sheets or his employees of the Office of International Affairs in the meeting with Torshin and Butina held in April 2015.

As you know, the FOIA provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, please send me all non-exempt portions of the records I have requested and justify any deletions by reference to specific exemptions of the FOIA. I reserve the right to appeal your decision to withhold any materials.

Since some of the documents listed above may be more readily available than others, please provide the documents that are available as soon as possible without waiting to provide access to all the documents.

The FOIA provides for waiver or reduction of fees if disclosure could be considered as “primarily benefiting the general public.” I am a journalist employed by NPR and intend to use the information I am requesting as a basis for a planned news story, which makes me a “representative of the news media.”

August 29, 2018

Page 2

Therefore, I ask that you waive all duplication fees. If you deny this request, however, and the fees will exceed \$250, please notify me of the charges before you fulfill my request so that I may decide whether to pay the fees or appeal your denial of my request for a waiver.

I submit this request in my capacity as a journalist, and this information is time-sensitive. Accordingly, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have any questions regarding this request. I can be reached at 202-870-7566 or tmak@npr.org.

You can also communicate with anyone in NPR's Legal Department, including, Micah Ratner, Counsel, who can be reached at 202-513-2045 or mratner@npr.org.

I look forward to receiving your reply within twenty (20) business days, as required by federal law.

Thank you for your anticipated cooperation with this FOIA request.

Sincerely,

Tim Mak

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

I. (a) PLAINTIFFS NATIONAL PUBLIC RADIO, INC. and TIM MAK (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS UNITED STATES DEPARTMENT OF THE TREASURY COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>																												
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Alia L. Smith Ballard Spahr LLP 1909 K St. NW, 12th Fl. Washington, DC 20006 ph: 202.508.1125	ATTORNEYS (IF KNOWN)																												
II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																												
<table style="width: 100%;"> <tr> <td><input type="radio"/> 1 U.S. Government Plaintiff</td> <td><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</td> </tr> <tr> <td><input checked="" type="radio"/> 2 U.S. Government Defendant</td> <td><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</td> </tr> </table>	<input type="radio"/> 1 U.S. Government Plaintiff	<input type="radio"/> 3 Federal Question (U.S. Government Not a Party)	<input checked="" type="radio"/> 2 U.S. Government Defendant	<input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width: 100%;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input checked="" type="radio"/> 1</td> <td><input checked="" type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input checked="" type="radio"/> 1	<input checked="" type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input checked="" type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input checked="" type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) <i>*(If pro se, select this deck)*</i>	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C. § 552 - Release of Agency Records

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 1/3/2019	SIGNATURE OF ATTORNEY OF RECORD: /s/ Alia L. Smith
----------------	--

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL PUBLIC RADIO, INC. et al.

Plaintiff

v.

UNITED STATES DEPT. OF THE TREASURY

Defendant

)
)
)
)
)
)
)

Civil Action No. 1:19-cv-17

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* UNITED STATES DEPARTMENT OF THE TREASURY
1500 Pennsylvania Ave. NW
Washington, DC 20220

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Alia L. Smith
BALLARD SPAHR LLP
1909 K Street NW, 12th Fl.
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk